IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 199 OF 1999

The State of Maharashtra ..Appellants

versus

Ashok Pundalik Bagul ..Respondent / Accused
aged 39 years, Residing at
14, Sanjay Colony, Shicholi,
Dehu Road,

Mrs. V. R. Bhosale, APP for the Appellants - State.

Mr. Nitin Jamdar, APP for the Respondent - Accused.

CORAM : D. G. DESHPANDE, &
S. A. BOBDE,JJ.

DATE : 6TH JUNE, 2006

ORAL JUDGMENT (Per. D. G. Deshpande, J.) :

1. Heard learned APP for the Appellants - State and Advocate for the Respondent - Accused.

2. This Appeal is filed by the State Government against the order of acquittal of the accused for offence under Section 409, 420, 468, 471 of IPC.

3. Case against the accused is that he withdrew an amount of Rs.55,926/- from State Bank of India

while acting as a Public servant i.e. cashier in the Defence Estate Office, Pune. It was entrusted to him for remittance to the Government Treasury in favour of C.D.A. Sadan Command, Pune, and, that according to the prosecution the accused did not deposit this amount. Firstly, there is no evidence on record from any of the Officers of the Bank who could say that it was the accused who presented the cheque. Even though the bank examined one Manohar Uplenchawar P.W. 7, he is unable to tell the name of the cashier who made payment to the accused against cheque. He also failed to tell the name of the clerk who issued extract of account in the year 1988-89. He has no personal knowledge, and, therefore, the court held that there was no proof whether payment was made to the accused against the disputed cheque.

4. Then one witness of the prosecution P. W. 4 Shashikant Pathak admitted in his cross examination that there is entry about transferring the amount to D.A. Office and that entry in the bank’s scroll were to be tallied by D.E.O. He also admitted that he had signed the cash book about confirmation of entry of Rs.90,000/- and Rs.55,000/-

during the course of previous audit on 20.4.1989. Therefore, the court held that the amount was transferred to CDA and there was no entrustment to the accused and no misappropriation by him. It is in this background that the trial court acquitted the accused. We, see, no reason to interfere with the judgment of the trial Court. Hence, we pass the following order:

ORDER

. State Appeal is dismissed.

. If the accused is on bail, his bail bond shall stand cancelled.

(D.G. DESHPANDE, J.)

(S.A. BOBDE, J.)